

ProSLIP – Surplus Lines Professional Liability

This policy together with its Declarations, Application and Endorsements, if any, complete the Insurance Agents' and Brokers' Professional Liability provided by us.

Important Notices

This is a claims-made policy. It does not cover negligent acts, errors or omissions, which took place prior to the Retroactive Date, if any, stated in the Declarations of this policy. Further, this policy will only apply to claims first made against you while the policy remains in effect. Refer to Section V-Extended Discovery Periods for information concerning coverage for claims-made after termination of this policy.

Defense costs are subject to the Deductible Amount. Refer to Section III-Limits of Insurance and Deductible Amount.

In issuing this policy we have relied upon the statements made in the Application for this insurance. Concealment or misrepresentation of any material fact(s) or circumstance concerning this insurance can result in coverage denial, cancellation or nonrenewal. Refer to Section IV - Conditions, Item 8 Representations of this policy.

Various provisions in this policy restrict coverage. Read the entire form carefully to determine rights, duties and what is and is not covered. Throughout this policy the word **you** and **your** refer to the **named insured** stated in the Declarations for this policy. The words **we**, **us** and **our** refer to the Company providing this insurance.

The term **named insured** means any person or organization named in the declarations of this policy as **NAMED INSURED**.

The word **insured** means any person or organization qualifying as such under Section II-Who Is An Insured.

Other words and phrases that appear in **boldfaced** print have special meaning. Refer to Section VI-Definitions.

Section I - Insurance Agents' and Brokers' Professional Liability Coverage

1. Insuring Agreement

- a. **We** will pay on behalf of the insured those sums which the insured becomes legally obligated to pay as damages because of a negligent act, error or omission in the performance of the insured's **professional services**. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for.
- b. This insurance applies only to claims arising out of the **professional services** of the insureds individually or collectively; provided that:
 - (1) The negligent act, error or omission takes place in the **coverage territory** on or after the Retroactive Date, if any, stated in the Declarations; and
 - (2) The claim for such damages is first made against the insured during the policy period. A claim by a person or organization seeking damages during the policy period will be deemed to have been first made at the earliest of the following:

- (a) On the date when **suit** is first brought against any insured;
 - (b) On the date when any insured first receives written notice of the claim; or
 - (c) On the date when any insured gives **us** written notice of a negligent act, error or omission, which may result in a claim being made against an insured.
- c. All claims which arise out of a single act, error or omission or a series of related acts, errors or omissions will be considered to be made at the time the first of such claims is made against any insured.
- d. **We** will have the right and duty to defend any **suit** seeking damages because of a negligent act, error or omission covered by this policy. **We** may, at **our** discretion, investigate and with the insured's consent, settle any claim or **suit** that may result. If any insured refuses to any consent to a settlement or offer **we** recommend, **we** will continue to direct the defenses of the claim. But:
 - (1) **We** will not be liable under this policy for more than the amount for which the claim could have been settled, including the **defense costs** incurred up to the date the insured refused to give consent;
 - (2) The amount **we** pay for damages is limited as described in Section III-Limits of Insurance and Deductible Amount; and
 - (3) Our right and duty to defend ends when **we** have used up the applicable Limit of Insurance in the payment of judgments or settlements, or if **we** expend an amount equal to the policy's aggregate limit in defense.

2. Exclusions

This insurance does not apply to any claim:

- a. For:
 - (1) Premiums which any insured collected or should have collected on behalf of another person or organization;
 - (2) Premiums which any insured returned or should have returned to another person or organization;
 - (3) Commissions which any insured collected or should have collected on behalf of another person or organization;
 - (4) Commissions which any insured returned or should have returned to another person or organization; or
 - (5) The amount of any claim that any insured paid or should have paid to another person or organization;
- b. For any amount that any insured may be required to pay as fines, assessments, fees, levies, penalties, or taxes;

- c. Arising out of any active and deliberate, dishonest, criminal, fraudulent, malicious or knowingly wrongful act, error or omission of any insured. But this Exclusion c. does not apply to liability of any other insured, unless the act, error or omission was committed with the prior knowledge or participation of such other insured.
- d. Arising out of an act, error or omission directly or indirectly relating to the employment or application for employment of any person;
- e. Arising out of services an insured performs as a fiduciary under:
 - (1) The Employment Retirement Income Security Act of 1974;
 - (2) Any similar Federal, State or local statutory law or common law; or
 - (3) Any amendments to such acts or laws;
- f. Arising out of **securities** transactions. **Securities** has the meaning assigned to that term by the Investment Companies and Advisors Act of 1940, as amended or may be amended;

This exclusion f. does not apply to **professional services** directly provided with respect to **mutual funds, variable life, or variable annuities**.

Mutual funds, variable life, or variable annuities have meanings given to those terms by the Securities and Exchange Commission under the laws, rules and regulations of the investment Company Act of 1940, the Securities Act of 1933, and the Securities Exchange Act of 1934, and any amendments to the foregoing Acts.

- g. Arising out of violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961, et seq.
- h. Arising out of warranties or representations made in connection with safety inspections, loss control or safety engineering services;
- i. Arising out of the operation, management or ownership of any business not named in the Declarations which, in whole or in part, is owned, operated or managed by:
 - (1) **You**; or
 - (2) An affiliate or subsidiary company of **you** or **your** parent;
- j. Arising out of any insured's act, error or omission, or status as an officer, director, partner, trustee or employee of:
 - (1) A business not named in the Declarations;
 - (2) A charitable organization; or
 - (3) A pension, welfare, profit sharing, mutual or investment fund or trust;
- k. Arising out of the ownership, maintenance, operation, use, entrustment to others, loading or unloading or any **automobile**, aircraft, **recreational motor vehicle** or watercraft by any insured;

- (1) **Automobile** means any land motor vehicle, trailer, or semi-trailer designed for use on public roads, including any attached machinery or equipment.
- (2) **Recreational motor vehicle** means any golf cart, motor scooter, motor home, snowmobile, or any similar type vehicle whether or not such vehicle is subject to vehicle registration laws.

3. **Supplementary Payments**

- a. Subject to 1.d. of the Insuring Agreement, **we** will pay with respect to any claim or **suit we** defend:
 - (1) All claims expenses and **defense costs we** incur;
 - (2) The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. **We** are not obligated to furnish these bonds.
 - (3) All reasonable expenses, other than loss of earnings, incurred by any insured at **our** request to assist **us** in the investigation or defense of the claim or **suit**;
 - (4) All costs taxed against an insured in the **suit**;
 - (5) Pre-judgment interest awarded against an insured on that part of the judgment **we** pay;
 - (6) All interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
- b. These payments will not reduce the Limits of Insurance.
- c. **Defense costs** will be subject to the Deductible and will be in addition to the Limits of Insurance and will be limited to one times the Limits of Insurance.

Section II - Who Is an Insured

1. With respect to coverage provided under this policy, each of the following is an insured:
 - a. Any **named insured**;
 - b. Any active or retired partner, executive officer, employee or **office broker** while acting on behalf of and within the scope of their duties for the **named insured**; and
 - c. Any organization **you** newly acquire, form, or one which **you** merge with, provided **you** maintain ownership or majority interest. But coverage provided by this provision 1.c.:
 - (1) Applies only if there is no other similar insurance available; and
 - (2) Is afforded, beginning on the date of legal ownership and only for 30 days after **you** acquire or form the organization, or merge with it, or the end of the policy period whichever is earlier. **You** must notify **us** in writing within 30 days of this material change and provide the required underwriting information. In no case will coverage apply to any act(s), error(s), or omission(s), which occurred prior to the date of legal ownership.

We reserve the right to make an additional premium charge when such transaction takes place after the inception date of the policy.

2. No person or organization is an insured with respect to:
 - a. The conduct of any current or past entity that is not stated as a **named insured** in the Declarations;
 - b. Claims made or **suits** brought against **you** by;
 - (1) A business which is wholly or partly owned, operated, or managed by **you**, or in which **you** are an officer or director;
 - (2) A business which wholly or partly owns, operates, or manages **you**;
 - (3) A business which is owned, operated or managed by an employee of yours;
 - c. Claims made or **suits** brought against any insured by any other insured.

Section III - Limits of Insurance and Deductible Amount

1. Subject to 2., 3., and 4. of this Section, the Limits of Insurance stated in the Declarations of this policy represent the most **we** will pay, regardless of the number of:
 - a. Insureds;
 - b. Acts, errors or omissions causing the damage;
 - c. Claims made or **suits** brought;
 - d. Persons or organizations making claims or bringing **suits**.
2. Aggregate Limit
 - a. The Limit of Insurance shown in the Declarations of this policy as Aggregate is the most **we** will pay for all damages which arise out of claims first made during the policy period.
 - b. The Aggregate Limit of this policy applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period stated in the Declarations. If the policy period is extended after issuance for an additional period of less than 12 months, this additional period will be deemed part of the last preceding period for purposes of determining the Aggregate Limit of Insurance.
3. Each Claim Limit
 - a. Subject to 2. above, Aggregate Limit, the Limit of Insurance stated in the Declarations of this policy as Each Claim is the most **we** will pay for all damages, incurred with respect to a single claim, regardless of the number of insureds involved.
 - b. All claims for damages which arise out of a single act, error or omission, or any series of related acts, errors or omissions, whether committed by one or more insureds, will be considered a single claim.

4. Deductible Amount

- a. Before **we** pay any claim under this policy **we** will subtract the Deductible Amount stated in the Declarations as applying to Each Claim from the damages and **defense costs** which are incurred with respect to a single claim. **We** will only pay the lesser of that part of such damages and **defense costs** which exceeds the Deductible Amount, or the Limit of Insurance that applies.
- b. If **we** pay part or all of the Deductible Amount to effect settlement of any claim or **suit**, **we** will notify **you** of **our** payment of the Deductible. The first **named insured** shall reimburse **us** for the part of the Deductible Amount that **we** paid within 30 days of **our** notification.
- c. The terms of this insurance, including those with respect to Condition 4., of Section IV - Duties in the Event of an Act, Error or Omission, Claim or **Suit**, apply irrespective of the application of the Deductible Amount.

Section IV - Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve **us** of **our** obligations under this policy.

2. Cancellation

- a. The first **named insured** stated in the Declarations may cancel this policy by mailing or delivering to **us** advance written notice of cancellation.
- b. **We** may cancel this policy by mailing or delivering to the first **named insured** written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if **we** cancel for nonpayment of premium: or for nonpayment of the Deductible Amount;
 - (2) 60 days before the effective date of cancellation if **we** cancel for any other reason.
- c. **We** will mail or deliver **our** notice to the first **named insured's** Mailing Address stated in the Declarations.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is cancelled, **we** will send the first **named insured** any premium refund due. If **we** cancel, the refund will be pro rata. If the first **named insured** cancels, the refund will be short rate. The cancellation will be effective even if **we** have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.
- g. Any part of this Condition 2. Cancellation, that conflicts with State Law is automatically changed to conform to the law of the state shown in the Declarations as the **named insured's** Mailing Address.

3. Changes

This policy contains all the agreements between **you** and **us** concerning the insurance afforded. The first **named insured** stated in the Declarations is authorized to make changes in the terms of this policy with **our** consent. This policy's terms can be amended or waived only by endorsement issued by **us** and made a part of this policy.

4. Duties in the Event of an Act, Error or Omission, Claim or Suit

a. As soon as **you** know of an alleged negligent act, error or omission which may result in a claim, **you** must give **us** written notice of the act, error or omission as soon as practical, to the extent possible, notice should include:

- (1) How, when and where the negligent act, error or omission took place; and
- (2) The names and addresses of persons or organizations incurring damages.

If the negligent act, error or omission results in a claim or **suit**, an additional notice is required in accordance with paragraph 4.h. of this Section.

b. If claim is made or **suit** is brought against an insured, **you** must:

- (1) Immediately record the specifics of the claim and the date received; and
- (2) Notify **us** as soon as practical.

c. **You** and any other involved insured must:

- (1) Immediately send **us** copies of any demand, notice, summons or other process received in connection with the claim or **suit**;
- (2) Authorize **us** to obtain records and other information;
- (3) Cooperate with **us** in the investigation, settlement or defense of the claim or **suit**;
- (4) Attend hearings, depositions and trials, and assist in obtaining the attendance of witnesses;
- (5) Assist **us**, upon **our** request, in the enforcement of any right against any person or organization which may be liable to the insured because of damages to which this insurance may also apply.

d. No insureds may, except at their own cost, voluntarily make a payment, assume any obligation or incur any expense, without **our** written consent.

5. Legal Action Against Us

a. No person or organization has a right under this policy:

- (1) To join **us** as a party or otherwise bring **us** into a **suit** asking for damages from an insured; or
- (2) To sue **us** under this policy unless all of its terms have been fully complied with.

b. A person or organization may sue **us** to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but **we** will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance.

- (1) An agreed settlement means a settlement and release of liability signed by **us**, the insured and the claimant or the claimant's legal representative.
- (2) A final judgment means a judgment rendered on the facts or the law by a court of the judicial branch of government having original jurisdiction which disposes of a cause of action by declaring that the plaintiff is or is not entitled to the remedy asked for; but final judgment does not include default judgments.

6. **Other Insurance**

- a. If other valid and collectible insurance is available to any insured for a loss which would otherwise be covered under this policy, this insurance shall become excess whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent, or otherwise; unless, such other insurance is purchased specifically to apply in excess of the Limits of Insurance stated in the Declarations of this policy.
- b. When this insurance is excess, pursuant to the terms of item 6.a. above, **we** will have no duty to defend the insured against any **suit** if any other insurer has a duty to defend the insured against that **suit**. If no other insurer defends, **we** will undertake to do so, but **we** will be entitled to the insured's rights against all those other insurers.

7. **Premium and Audit**

- a. We will compute all premiums for this policy in accordance with **our** rules and rates.
- b. The premium stated in the Declarations is computed based on rates in effect at the time the policy is issued. On each renewal, continuation, or anniversary of the effective date of this policy, **we** will compute the premium in accordance with **our** rates and rules then in effect.
- c. Premium stated in the Declarations as:
 - (1) The estimated annual premium is a deposit premium only;
 - (2) The minimum premium is the minimum annual amount that **we** will charge for this insurance.
- d. At the end of each policy period (audit period) stated in the Declarations, **we** will compute the earned premium for that period. The deposit premium paid for the policy will be credited to the audit premium.
 - (1) If the deposit premium is less than the earned premium as determined by the audit, **you** must pay the additional premium.

Audit premiums are due and payable on notice to the first **named insured** stated in the Declarations.

- (2) Subject to the minimum premium, if the deposit premium is greater than the earned premium, as determined by the audit, **we** will return the excess to the first **named insured** stated in the Declarations.

- e. The first **named insured** stated in the Declarations:
 - (1) Must keep records of the information **we** need for premium computation, and send **us** copies at such times as **we** may request;
 - (2) Is responsible for the payment of all premiums; and
 - (3) Will be the payee for any return premiums **we** pay.
- f. Premiums will be computed based on **revenues**. **Revenues** are defined as gross commissions and fees, (i.e., without reduction for “split” with other producers), but excluding profit-sharing bonuses, investment income and interest income other than from premium financing activities.

8. Representations

By accepting this policy, **you** warrant that:

- a. The statements in the Application for coverage and in the Declarations of this policy are accurate and complete;
- b. Those statements are based upon representations you made to **us**; and
- c. **We** have issued this policy reliant upon **your** representations.

9. Separation of Insureds

Except with respect to the Limits of Insurance and any rights or duties specifically assigned to the first person or organization stated in the Declarations as named **insured**, this insurance applies:

- a. As if each **named insured** were the only **named insured**; and
- b. Separately to each insured against whom claim is made or **suit** is brought.

10. Transfer of Rights of Recovery Against Others to Us

If any insured has rights to recover all or part of any payment **we** have made under this policy, those rights are transferred to **us**. The insured must do nothing after loss to impair them. At **our** request, the insured will bring **suit** or transfer those rights to **us** and help **us** enforce them.

11. When We Do Not Renew

- a. If **we** decide not to renew this policy, **we** will mail or deliver to the first **named insured** stated in the Declarations written notice of the nonrenewal not less than 60 days before the expiration date.
- b. If notice is mailed, proof of mailing will be sufficient proof of notice.
- c. Any part of this Condition 11. When We Do Not Renew, that conflicts with State Law is automatically changed to conform to the law of the state shown in the Declarations as the **named insured's** Mailing Address.

Section V - Extended Discovery Periods

1. We will provide one or more Extended Discovery Periods, as described below, if:

- a. We cancel this policy for other than nonpayment of the premium or nonpayment of the Deductible; or
- b. We do not renew this policy; or
- c. We renew or replace this policy with insurance that has a Retroactive Date later than the date stated in the Declarations.

Renewal of this policy at different rates from the expiring coverage will not be considered a cancellation or nonrenewal by us.

2. Basic Extended Discovery Period

- a. A Basic Extended Discovery Period is automatically provided without additional charge. This period starts at the end of the policy period and lasts for sixty days.
- b. Claims made against the insured within sixty days after the end of the policy period, and arising out of a negligent act, error or omission that was committed during the policy period but not before the Retroactive Date, if any, stated in the Declarations will be deemed to have been made on the last day of the policy period.

3. Supplemental Extended Discovery Period

A supplementary Extended Discovery Period is available, but only by an endorsement and for an extra charge of 100% of expiring policy premium.

- a. This Supplementary Extended Discovery Period starts at the end of the Basic Extended Discovery Period and lasts for 12 months after the end of the policy period.
- b. Claims made against the insured within 12 months after the end of the policy period, and arising out of a negligent act, error or omission committed during the policy period, but not before the Retroactive Date, if any, stated in the Declarations will be deemed to have been made on the last day of the policy period.
- c. To obtain this Supplementary Extended Discovery Period Endorsement the first **named insured** must:
 - (1) Give us a written request for the endorsement within 60 days after the end of the policy period; and
 - (2) Pay the additional premium promptly when due.
- d. The additional premium is fully earned at the inception date of the Supplementary Extended Discovery Period. The Supplementary Extended Discovery Period will not go into effect unless the additional premium is paid promptly when due.

- e. **We** will determine the additional premium in accordance with **our** rules and rates. In doing so, **we** may take into account the following:
 - (1) The exposures insured;
 - (2) Previous types and amounts of insurance;
 - (3) Limits of Insurance available under this policy for future payment of damages; and
 - (4) Other related factors.
- 4. Extended Discovery Periods do not extend the policy period or change the scope of coverage provided.
- 5. Extended Discovery Periods do not reinstate or increase the Limits of Insurance applicable to any claim to which this policy applies.
- 6. Extended Discovery Periods do not apply to claims that are covered under any subsequent insurance purchased, or that would be covered but for the exhaustion of the limits of insurance applicable to such claims.
- 7. All claims under Extended Discovery Periods must be reported to **us** in accordance with Condition 4. of Section IV .Duties in the Event of an Act, Error or Omission, Claim or **Suit**.

Section VI - Definitions

- 1. **coverage territory** means all parts of the world if an insured's responsibility to pay damages is determined in a **suit** in the United States of America, its territories and possessions, Puerto Rico or Canada.
- 2. **defense costs** means the cost to provide legal representation. It includes attorneys' fees, expert fees and related costs and expenses incurred to defend a claim, **suit** or other legal proceeding.
- 3. **office broker** means any of the following who perform **professional services** for the **named insured** under a written agreement:
 - a. a licensed:
 - (1) insurance agent;
 - (2) insurance broker; or
 - (3) insurance solicitor; or
 - b. an individual or organization operating as an independent contractor.

4. **professional services** means the operation, management and work performed by **you** or on **your** behalf in the conduct of the business named in the Declarations:

- a. as a licensed:
 - (1) insurance agent;
 - (2) insurance broker;
 - (3) insurance solicitor; or
 - (4) surplus lines or excess lines broker;

- b. as a:
 - (1) general insurance agent; or
 - (2) managing general agent;

only when a. or b. stated above are engaged in the following insurance related activities:

- (i) appraising real or personal property for the purpose of purchasing insurance;
- (ii) claims adjusting and claims administration, including third party administration (TPA.);
- (iii) engineering and loss control services for the purposes of purchasing insurance and or self insurance
- (iv) risk analysis;
- (v) insurance consulting;
- (vi) notarizing;
- (vii) placement and sales of insurance products; and
- (viii) premium financing.

5. **suit** means a civil proceeding in which damages to which this insurance applies are alleged. **Suit** includes:

- a. an arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with **our** consent; or
- b. any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with **our** consent.